

ARKANSAS COURT OF APPEALS

DIVISION II

No. CA08-1148

BRANDI FLOWERS,

APPELLANT

V.

ARKANSAS DEPARTMENT OF
HEALTH & HUMAN SERVICES and
MINOR CHILD,

APPELLEES

Opinion Delivered 4 FEBRUARY 2009APPEAL FROM THE PULASKI
COUNTY CIRCUIT COURT,
[NO. JJN2004-1984]THE HONORABLE WILEY A.
BRANTON JR., JUDGEAFFIRMED and MOTION TO
WITHDRAW GRANTED**D.P. MARSHALL JR., Judge**

The circuit court terminated Brandi Flowers's parental rights to her daughter, E.B. On appeal, Flowers's lawyer has moved to withdraw and filed a no-merit brief pursuant to *Linker-Flores v. Arkansas Dep't of Human Servs.*, 359 Ark. 131, 194 S.W.3d 739 (2004) and our Rule 4-3(j)(1). The brief states that there were no adverse rulings at the termination hearing other than the ultimate decision to terminate and explains why no meritorious ground for reversal exists. We agree that this appeal is wholly without merit.

In terminating Flowers's parental rights, the circuit court found that E.B. is young, likely to be adopted, and would face potential harm, adversely affecting her health and safety, by continued contact with Flowers. Ark. Code Ann. § 9-27-341(b)(3)(A) (Repl. 2008). The court also found two statutory grounds for

termination. As one ground, it found that these circumstances existed: that other issues arose after DHS filed its initial dependency-neglect petition; that those issues demonstrated that returning E.B. to her mother's custody was contrary to the child's health, safety, or welfare; and that, despite DHS's offer of services, Flowers manifested the incapacity or indifference to remedy those issues or to rehabilitate the circumstances that kept E.B. from being returned to her custody. Ark. Code Ann. § 9-27-341(b)(3)(B)(vii)(a).

The evidence presented at the termination hearing supports this ground for termination. In late 2004, Flowers asked nineteen-year-old Valerie Smith to keep E.B. while she was in prison for violating the terms of her probation. About a month later, DHS took emergency custody of E.B., who was living in a house with no utilities. E.B. was being supervised by Smith and her sixteen-year-old sister. Two other small children were also present.

After being released from prison, Flowers was diagnosed with antisocial personality disorder. And she continued to use drugs. Flowers tested positive for marijuana less than a month before the termination hearing. Although she completed one round of parenting classes, Flowers failed to complete a second round. She also failed to obtain adequate and stable housing. From November 2007 to March 2008, DHS was not sure where she was living. And Flowers testified at the termination hearing that she had been at her current residence for only two months. The court also noted that she was not forthright about her relationship with Randall Colon—a

man who had a criminal record and pending drug charges. We see no clear error in the circuit court's decision to terminate Flowers's parental rights. *Yarborough v. Arkansas Dep't of Human Servs.*, 96 Ark. App. 247, 253, 240 S.W.3d 626, 630 (2006).

Flowers also filed a list of pro se points on appeal. One of her points—about a possible conflict of interest with one of DHS's witnesses—may not be wholly frivolous. But the record does not show that Flowers raised this issue below. We do not reach arguments that were not first raised to the circuit court. *Moore v. Arkansas Dep't of Human Servs.*, 95 Ark. App. 138, 143, 234 S.W.3d 883, 887 (2006). Flowers also contends that she has information that may have been overlooked by the circuit court and points out that DHS personnel continuously changed during this case. We are convinced, however, that the court carefully considered all of Flowers's circumstances when deciding to terminate her parental rights. The rest of Flowers's pro se points focus on the improvements that she made in the months before and after the termination. Improvement and compliance toward the end of a case, though commendable, will not necessarily bar the termination of parental rights. *Camarillo-Cox v. Arkansas Dep't of Human Servs.*, 360 Ark. 340, 354–55, 201 S.W.3d 391, 400–01 (2005).

We therefore agree that this appeal is wholly without merit. We grant counsel's motion to withdraw and affirm the termination order.

KINARD and GLOVER, JJ., agree.